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In re Application of :
Boyd & Pankratz :
Application No.: 10/799,998 :
Filed: March 12, 2004 :
Attorney Docket No.: 56050US008 :

OFFICE OF PETITIONS

ON PETITION

This a decision on the petition filed August 3, 2004 (certificate of facsimile dated July 30, 2004). The petition will be treated under 37 CFR 1.182 in accordance with 37 CFR 1.53(e)(2).

The petition is **granted**.

The subject non-provisional application was filed on March 12, 2004. On June 1, 2004, the Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application accorded the application a filing date and indicated that Figures 11 and 12 as described in the specification appeared to have been omitted. The notice set a non-extendable period for reply of two months from its mailing date. The instant petition was filed on August 3, 2004, and was accompanied by the omitted figures and a preliminary amendment requesting entry of the omitted figures.

Petitioner argues that the application was complete on filing and entitled to a filing date of March 12, 2004, because application 10/799,998 incorporated by reference application 09/827,732 in its entirety.

In view of the incorporation by reference statement found on the application transmittal sheet, the application will retain the filing date of March 12, 2004 with Figures 11 and 12 as part of the original disclosure. The examiner assigned to this application will be expected to consider the preliminary amendment and compare the drawings filed with the instant petition with the drawings contained in application 09/827,732 and/or prior related application listed to be sure application 10/799,998 does not contain new matter.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 12, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petition Attorney
Office of Petitions